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Attorney for Plaintiff

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

RICHARD C. LUM, an individual,

Plaintiff,

vs.

LVHR CASINO, LLC, a Domestic Limited
Liability Company, d/b/a HARD ROCK HOTEL &
CASINO; DOES I through X, inclusive; ROE
CORPORATIONS I through X, inclusive,

Defendants.

CASE NO:

**COMPLAINT FOR DISCRIMINATION
UNDER TITLE I AND V OR THE
AMERICANS WITH DISABILITIES
ACT FOR WRONGFUL
TERMINATION AND RETALIATION.**

COMES NOW, Plaintiff, RICHARD C. LUM (hereinafter, "Plaintiff"), by and through his counsel, the law firm of Hatfield & Associates, Ltd., and alleges upon information and belief against the above-captioned Defendants as follows:

PARTIES

1. At all times relevant hereto, Plaintiff, residing in Las Vegas, Clark County, Nevada, suffered and suffers from an injury that occurred while he was working for his employer, Defendant.

2. Plaintiff was an employee of Defendant within the meaning of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Sections 2000e, et seq., and applicable case law.

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1 claims arising under the common law and statutes of the State of Nevada, and which arise from a
2 common nucleus of operative fact pursuant to 28 U.S.C. Section 1367.

3 8. Venue is proper in the United States District Court for the District of Nevada
4 pursuant to 28 U.S.C. Section 1391(b), wherein Plaintiff resides, or resided, and Defendants reside
5 or resided, and/or regularly conducts business and where all the wrongful conduct occurred.
6

7 **ADMINISTRATIVE PREREQUISITES**

8 9. Plaintiff has complied with all the administrative prerequisites to action under Section
9 706 of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Sections 2000e-5 as
10 follows:

11 10. Plaintiff was terminated from his employment on or about March 19, 2014, and
12 Plaintiff thereafter timely filed a formal charge of discrimination with the Equal Employment
13 Opportunity Commission [hereinafter "EEOC"].
14

15 11. Plaintiff promptly and diligently accommodated all EEOC requests for information
16 and fully cooperated in the agency's investigation of this matter;

17 12. Plaintiff has exhausted all available administrative remedies in accord with the
18 aforementioned statutes prior to instituting this civil action, and Plaintiff has timely filed this action.

19 13. Plaintiff demands a jury trial of this case pursuant to Local Rule 38-1 and 28 U.S.C.
20 Section 1411.
21

22 **FACTUAL ALLEGATIONS**

23 14. Plaintiff is a qualified individual with a disability within the meaning of the
24 American's with Disabilities Act of 1990, and amendments thereto, and 42 U.S.C. Section 1201 et
25 seq., the Rehabilitation Act of 1973, and amendments thereto, and 26 U.S.C. Section 701 et seq., and
26 29 U.S.C. Section 2601 et seq.
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17. Upon information and belief and at all relevant times, certain individuals were acting as supervisors, agents, servants and/or employees of Defendants. Defendants are therefore liable for the acts and omissions of these individuals pursuant to the principals of ratification, respondeat superior and actual and/or implied agency.

19. Plaintiff was informed by Defendants supervisory employees that he temporarily could not work due to him suffering an on the job injury. He requested accommodation and leave, which was provided to him initially only to be rescinded by Defendants without notice or opportunity for engagement in an interactive process for accommodation for his disability.

CAUSES OF ACTION

Wrongful Termination Under the ADA

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1 22. Defendants initially provided leave to Plaintiff in order to accommodate his
2 temporary disability and recuperate, then revoked accommodation and thereafter refused to provide
3 Plaintiff with reasonable accommodation for his disability, although Plaintiff was capable of
4 performing his duties if he had only been provided ample time to recuperate.

5 23. Defendants continually, intentionally, and in a discriminatory manner refused to
6 accommodate Plaintiff in his position because of his disability.

7 24. Defendants' termination of Plaintiff was not based upon any medical justification or
8 other reasonable reason and was discriminatory as to Plaintiff. Defendants terminated Plaintiff
9 without just cause and because of his disability.

10 25. Such adverse employment actions by Defendants were in violation of the ADA.

11 26. Following Defendants' termination of Plaintiff, based upon information and belief,
12 Plaintiff was replaced by a non-disabled individual.

13 27. As a result of Defendant's above-stated actions, Plaintiff has suffered irreparable
14 injuries and deprivation of income in the form of wages and prospective benefits, promotion
15 opportunities and job assignments due to him as an employee, and emotional pain and suffering,
16 mental anguish, humiliation, embarrassment, indignity, and other intangible injuries in an amount to
17 be proven at trial.

18 28. Plaintiff should be awarded punitive damages as well because of Defendants'
19 extreme and outrageous conduct.

20 29. As a further result of Defendants' above-stated actions, it has been necessary for
21 Plaintiff to obtain the services of the law offices of Hatfield & Associates, Ltd., to prosecute this
22 action, and Plaintiff is entitled to reimbursement for those attorney's fees and costs which have been
23 reasonably incurred.

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SECOND CAUSE OF ACTION

Retaliation Under the ADA

30. Plaintiff incorporates by reference the allegations set forth in the preceding paragraphs of the Complaint as though set forth at length herein.

31. Defendants initially provided leave to Plaintiff in order to accommodate his temporary disability and recuperate, then revoked accommodation and thereafter refused to provide Plaintiff with reasonable accommodation for his disability, although Plaintiff was capable of performing his duties if he had only been provided ample time to recuperate.

32. Defendant continually, intentionally, and in a discriminatory manner refused to accommodate Plaintiff in his position because of his disability.

33. Defendants' termination of Plaintiff was not based upon any medical justification or other reasonable reason and was discriminatory as to Plaintiff. Defendants terminated Plaintiff without just cause and because of his disability.

34. Such adverse employment actions by Defendants were in violation of the ADA.

35. As a result of Defendant's above-stated actions, Plaintiff has suffered irreparable injuries and deprivation of income in the form of wages and prospective benefits, promotion opportunities and job assignments due to him as an employee, and emotional pain and suffering, mental anguish, humiliation, embarrassment, indignity, and other intangible injuries in an amount to be proven at trial.

36. Plaintiff should be awarded punitive damages as well because of Defendants' extreme and outrageous conduct.

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37. As a further result of Defendant's above-stated actions, it has been necessary for Plaintiff to obtain the services of the law offices of Hatfield & Associates, Ltd., to prosecute this action, and Plaintiff is entitled to reimbursement for those attorney's fees and costs which have been reasonably incurred.

REQUEST AND PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment and damages against Defendants as follows:

1. Enter an injunction ordering Defendant to make Plaintiff whole with full back pay, benefits and reinstatement to a position Plaintiff would have obtained in the absence of discrimination or, in the alternative, front pay;
2. An award to Plaintiff for compensatory damages in amount to be shown at trial for past and future economic and non-economic losses within this Court's jurisdiction subject to proof;
3. An award to Plaintiff for general damages within this Court's jurisdiction subject to proof;
4. An award to Plaintiff for exemplary and/or punitive damages.
5. An award to Plaintiff for reasonable attorney's fees and costs, including but not limited to expert witness fees, and as provided under state law;
6. An award to Plaintiff of interest on any awards at the highest rate allowed by law; and
7. Such other and further relief as this Court deems just and appropriate.

Dated this 2nd day of June, 2016.

HATFIELD & ASSOCIATES, LTD.

By: */s/ Trevor J. Hatfield*

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